

MAINE STATE HARNESS RACING COMMISSION  
MINUTES OF MEETING  
OCTOBER 21, 2016

Conference Room, Gambling Control Board  
Department of Public Safety  
45 Commerce Drive, Augusta, ME

Commission Members Present: William Varney, Chair, Gary Reed, William McFarland, Michael Graham and Alex Willette

Staff Members Present: Ron Guay, AAG, Henry Jennings, Carol Gauthier and Miles Greenleaf

**1. Call the Meeting to Order and Introductions:** William Varney, Chair

**2. Review and Approval of Written Decisions and Orders**

Commissioner Graham made a motion to approve the Decision and Order for Gregory Libbey 2016 MSHRC 08 as presented. Commissioner McFarland seconded. Vote 4-0.

Commissioner McFarland made a motion to approve the Decision and Order for James Ramsdell, Sr. 2016 MSHRC 12 as presented. Commissioner Graham seconded. Vote 4-0

Commissioner Reed made a motion to approve the Decision and Order for Michael Hitchcock 2016 MSHRC 09 as presented. Commissioner Graham seconded. Vote 4-0.

AAG, Guay stated that in Mr. Mosher's decision and order there is a clarifying statement by the Commissioners to the department interpreting under what circumstances the automatic suspension would apply. These conditions of suspension would also apply to Mr. Sumner and Mr. Lefebvre.

Commissioner Reed made a motion to approve the decision and order for Marc Mosher 2016 MSHRC 06 preliminary denial. Commissioner McFarland seconded. Vote 4-0.

Commissioner Graham made a motion to approve the decision and order for Christopher Lefebvre 2016 MSHRC 07 preliminary license denial. Commissioner Reed seconded. Vote 4-0.

**Review and Approval of April 26, 2016 minutes**

Commissioner Reed made a motion to approve the minutes of April 26, 2016 as submitted.

Commissioner McFarland seconded. Vote 5-0.

**3. Adjudicatory Hearings:**

- a. RE: Mark Harris, Sr., Complaint Number 2016 MSHRC 16.** Mr. Harris is alleged to have violated MSHRC Rules Chapter 11. Mr. Harris is the trainer of record for the horse "West River Tex". A blood sample obtained from West River Tex following the fourth race at Skowhegan Fair on August 19, 2016 disclosed the presence bromhexine. Mark Harris, Sr. was present and represented himself. AAG, Guay gave Mr. Harris is oath. Commissioner Varney recused himself from the proceeding. He appointed Commissioner Graham as chairman pro tem. AAG, Guay qualified the Commissioners. Mr. Jennings moved for the admission of the following exhibits. Exhibit 1, Notice of Hearing; Exhibit 2, Trainer License Application; Exhibit 3, Race Program; Exhibit 4, Notice of Hearing; Exhibit 5, Sample Tag; Exhibit 6, Sample Shipment Sheet; Exhibit 7, LGC Lab Certificate of Analysis and Exhibit 8, ARCI Guidelines. AAG, Guay asked if there were any objections to the admission of the exhibits. Mr. Harris stated no. They were admitted. AAG, Guay asked Mr. Harris if he admits to being the trainer of record of the horse West River Tex and that the horse raced in the fourth race at Skowhegan Fair on August 19, 2016, and that the horse had bromhexine in its system. Mr. Harris stated yes to all of the above. AAG, Guay stated that they would move to the penalty phase. Mr. Harris stated that he gave the medicine too soon. The guidelines state 48 hours out and he didn't go by the guidelines. Mr. Jennings stated that according to the ARCI Guidelines this is a Class IV Drug which comes out as a Category B violation in Chapter 17. He recommends a 15 day suspension, \$500 fine and return of the purse. AAG, Guay stated to the Commissioners that they are not bound to the ARCI Guidelines. Under Chapter 11, Class IV is therapeutic drugs. Commissioner Graham asked for a motion. Commissioner Willette made a recommendation of the minimum of 15 day suspension, minimum of \$500 fine and the loss of purse. Commissioner Reed seconded. Vote 4-0. Mr. Harris asked

the Commission if he could still prepare food at Bangor for the horsemen because he knows that he is not allowed on the grounds. Commissioner Varney asked when his suspension starts. AAG, Guay stated that at our next meeting once the decision and order is signed. He stated that Mr. Harris should be all set.

- b. **RE: Jocelyn Desfosses, Complaint Number 2016 MSHRC 17.** Mr. Desfosses is alleged to have violated MSHRC Rules Chapter 11. Mr. Desfosses is the trainer of record for the horse "Surf New York". A blood sample obtained from Surf New York following the Qualifying Race at the Union Fair on August 23, 2016 disclosed the presence of Dextropropoxyphene. Jocelyn Desfosses was present and represented himself. Mr. Pelletier was present and was a translator for Mr. Desfosses. AAG, Guay gave Mr. Desfosses his oath. He also qualified the Commissioners for both cases. Commissioner McFarland recused himself from the hearing. AAG, Guay explained to Mr. Desfosses the process of the hearing. He asked Mr. Desfosses if he stipulated to being the trainer of record of the horse Surf New York and that the horse raced in a qualifying race at Union Fair on August 23, 2016, and that the horse had dextropropoxyphene in its system. Mr. Desfosses stated yes to all of the stipulations as stated above. Mr. Jennings moved for the admission of the following exhibits. Exhibit 1, Notice of Hearing; Exhibit 2, Trainer License Application; Exhibit 3, Notice of Positive Test; Exhibit 4, Sample Tag; Exhibit 5, Sample Shipment Sheet; Exhibit 6, LGC Lab Certificate of Analysis and Exhibit 7, ARCI Guidelines. AAG, Guay admitted the exhibits without objection from both parties. AAG, Guay asked Mr. Desfosses if he had any testimony. Mr. Desfosses stated that he didn't know what this product is all about. He gave the horse some medicine 48 hours or more before the race to clear up the mucus. AAG, Guay asked Mr. Jennings what the substance is. Mr. Jennings stated that it is an analgesic. According to the ARCI Guidelines, this would be a Class B Drug in the penalty category so that would take them to Chapter 17 page 9 a 1<sup>st</sup> offense, 15 day suspension and \$500 fine. Commissioner Willette asked if Mr. Desfosses had any prior violations. Mr. Jennings stated no. Commissioner Varney asked if Mr. Desfosses admits to the second case could they do everything all at once. AAG, Guay stated that he would take Mr. Desfosses through that. He stated to Mr. Desfosses that if he admits to the second violation than they would do all the penalties than. Mr. Desfosses stated that he admits on September 12, 2016 that he was the trainer of record of the horse May Day JoJo and that the horse raced in the fifth race at Scarborough Downs and that the horse had dextropropoxyphene in its system. AAG, Guay stated that they would consolidate the two hearings for the purposes of penalty. Mr. Desfosses stated yes. No objection to the consolidation. Mr. Jennings moved for the admission of the following exhibits for complaint number 2016 MSHRC 20. Exhibit 1, Notice of Hearing; Exhibit 2, Trainer License Application; Exhibit 3, Race Program; Exhibit 4, Notice of Positive Test; Exhibit 5, Sample Tag; Exhibit 6, Sample Shipment Sheet; Exhibit 7, LCG Lab Certificate of Analysis and Exhibit 8, ARCI Guidelines. AAG, Guay admitted the eight exhibits without objection. He asked Mr. Desfosses if there was anything else he would like to say about this case. Mr. Desfosses stated no. Mr. Jennings stated that according to the ARCI Guidelines this drug comes out to a Class III drug and the ARCI Guidelines classifies it as a Category B penalty. He also stated that the second violation was a betting race and purse involved. Mr. Desfosses stated that as a trainer he will accept the decision of the Commission. AAG, Guay closed the hearing for deliberations. Commissioner Graham made a motion to both offenses for a 15 day suspension, \$500 fine and loss of purse. Commissioner Reed seconded. Vote 4-0.
- c. **RE: Jocelyn Desfosses, Complaint Number 2016 MSHRC 20.** Mr. Desfosses is alleged to have violated MSHRC Rules Chapter 11. Mr. Desfosses is the trainer of record for the horse "May Day JoJo". A blood sample obtained from May Day JoJo following the Fifth Race at Scarborough Downs on August 12, 2016 disclosed the presence of Dextropropoxyphene. See complaint number 2016 MSHRC 17.

#### 4. Other Business

- a. Ongoing Discussion of Rule Amendments  
Mr. Jennings stated that there is a comment period for Chapter 11 which ends on November 4, 2016. He is looking through the rule book and evaluating with other staff.

- b. MSBOA request to change Chapter 9 Section 6, “In all Maine Sire Stakes events, all starters must be on the gate.

Mr. Jennings stated that he could move forward with this change or wait to do more rules at the same time. AAG, Guay stated that Chapter 11 and 17 needs to go forward. Commissioner Willette stated that the priority for him is setting the horse down would definitely clean up the industry. He doesn’t understand any reason to have a minimum if they say except if there are mitigating circumstances. He stated that when someone commits an OUI in Maine, they pay a \$500 fine at the base no matter what. He would suggest removing mitigating circumstances. If the Commission is going to reduce these fines so low that these horsemen really only get a slap on wrist when they cheat, yet they have the potential to make a great deal of money. Commissioner Varney stated that Chapter 11 and 17 go together so they should be at the top. Commissioner McFarland agrees with Commissioner Willette. Commissioner Varney stated that if we set the horse down then there needs to be some clarification because what happens when a horse is claimed or sold in-between the results of a positive test. All Commissioners agreed to adopt the ARCI Guidelines. AAG, Guay stated that you can say that if a substance does not appear in the list then the Commissioners may consider these factors.

- c. Sire Stakes Advisory Committee Approval

Commissioner Graham made a motion to approve the Sire Stakes Advisory Committee list as presented. Commissioner McFarland seconded. Vote 5-0.

- d. Scarborough Downs Audit Update

Mr. Jennings stated that Scarborough Downs agreed to allow Mr. Slocomb to audit the purse account. Mr. Slocomb stated that he proposed to meet with Scarborough Downs and present the issues and then meet with the MHHA. AAG, Guay asked if any of the audit issues potentially relevant to licensing. Mr. Jennings stated yes. AAG, Guay stated that if there are issues that are relevant to licensing than that needs to be presented under oath with Scarborough Downs here. Mr. Higgins stated that this issue needs to be resolved. AAG, Guay stated that if in your mind that you can satisfy yourself that either Scarborough or any licensee that is doing something that they shouldn’t be doing or not doing something they should be doing under the law that is relevant for a licensing hearing. The Commission can put conditions on the license. He stated that the Commission should stay clear of these issues because he doesn’t want the Commissioners to be prejudice. It was decided to plan for two days for renewal licensing.

**5. Public Comment**

Commissioner Varney asked for public comment. Ms. Perkins presented a handout of the Sire Stakes Points. She stated that they broke two Sire Stake records. Seeley Man won the 2 year old record last year and also broke the record as a 3 year old.

**6. Schedule of Future Meetings:**

November 18, 2016

December 8, 2016

**7. Adjourn**

11:10 a.m.